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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91197078
Party	Plaintiff Paul Jaboulet Aine
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Submission	Plaintiff's Notice of Reliance
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Signature	/Julie B. Seyler/
Date	09/19/2011
Attachments	PAUL JABOULET V GROSSNICKLE- APPLN SUPP RESP TO OPP INTERROGS.pdf (6 pages)(270110 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

PAUL JABOULET AINE

Opposer,

v.

S.P. GROSSNICKLE, LLC,

Applicant

Opposition No. 91197078

NOTICE OF RELIANCE UNDER RULE 2.120(j)(3)(i)

Opposer hereby makes of record in connection with this opposition, a copy of Applicant's Supplemental Responses to Opposer's Interrogatories, dated May 16, 2011.

Dated: September 19, 2011

Respectfully submitted,


JULIE B. SEYLER

ABELMAN FRAYNE & SCHWAB
666 Third Avenue
New York, New York 10017
212-949-9022

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing NOTICE OF RELIANCE was served by first class mail, postage prepaid this 19th day of September, 2011 upon the following:

Steven L. Smilay, Esq.
BOTKIN & HALL, LLP
105 East Jefferson Blvd., Ste. 400
South Bend, Indiana 46601


JULIE B. SEYLER

contained therein, and to the “Definitions” set forth in the Interrogatories, to the extent that they purport to impose upon Applicant obligations beyond those imposed under the Federal Rules of Civil Procedure. Applicant further objects to each Interrogatory to the extent it incorporates by reference a subpart in the form of an improper instruction and/or definition.

3. Applicant objects specifically to the definition of “Applicant,” “You,” and “Your” as overly broad, harassing and oppressive, and as seeking to invade attorney-client privilege and attorney work product. Applicant responds to each of the Interrogatories for itself alone.

4. Applicant objects to the Interrogatories generally, and to each Interrogatory contained therein, to the extent that they purport to require the disclosure of information within an unreasonably brief time period given the scope or nature of the information being sought and the schedule for this litigation.

5. Applicant objects to the Interrogatories generally, and to each Interrogatory contained therein, to the extent that they request proprietary or trade secret information of Applicant and/or third parties, or information that Applicant is under an obligation to a third party not to disclose.

6. Applicant objects to the Interrogatories generally, and to each Interrogatory contained therein, to the extent that they seek information, documents and things not relevant to any issue present in this proceeding, and are not reasonably calculated to lead to the discovery of admissible evidence.

7. Applicant objects to the Interrogatories generally, and to each Interrogatory contained therein, to the extent that they purport to require disclosure of documents or information that do not exist or are not in Applicant’s possession, custody or control.

8. Applicant objects to the Interrogatories generally, and to each Interrogatory contained therein, to the extent that they impose on Applicant an unreasonable burden or

expense.

9. The information supplied in response to the Interrogatories is not based solely upon the knowledge of Applicant, but includes the knowledge of Applicant's attorneys, unless privileged. The word usage and sentence structure is that of the attorneys who, in fact, prepared the responses and said language does not purport to be the exact language of Applicant.

10. Applicant's responses are based on investigation and discovery to date and are not intended as a complete recitation of all information upon which Applicant will rely at trial or at other hearings in this action. As discovery and investigation proceed, non-privileged facts, information, and evidence may be discovered which are not included in these responses, but which may be responsive to the Interrogatories. Applicant expressly reserves the right to offer at trial or other proceedings in this action further or different information or evidence that is subsequently discovered which may concern matters covered by the Interrogatories. In addition, information and evidence now known may be imperfectly understood and, in good faith, may not be included in this response. Applicant reserves all rights to conduct investigation and discovery with reference to, or offer into evidence at trial or other proceedings in this action, any and all facts, information and evidence, notwithstanding the absence of such items in this response.

11. These General Objections are incorporated into every response to the Interrogatories. By responding to an Interrogatory, Applicant does not waive any general or specific objections, nor does Applicant concede the relevancy, materiality, or admissibility of any of the information sought therein.

12. Applicant's responses to the Interrogatories, while based on diligent inquiry and investigation by Applicant, necessarily reflect only the current state of Applicant's knowledge, understanding and belief based upon the information reasonably available to him at this time. Defendant may produce additional documents in discovery, and review of these documents may

change Applicant's legal position and/or its responses to these Interrogatories. Applicant also anticipates that it may discover further documents and information. Without obligating itself to do so, Applicant reserves the right to modify, supplement, revise or amend these responses and to correct any inadvertent errors or omissions which may be contained herein, in light of documents or information which it may subsequently obtain or discover. Applicant's responses to these Interrogatories are provided without prejudice to Applicant's using, relying on at trial or at any hearing, or otherwise relying on subsequently discovered documents or information, or documents or information omitted from these responses as a result of mistake, error or oversight.

SUPPLEMENTAL RESPONSES TO INTERROGATORIES

INTERROGATORY NO. 3

- (a) Identify all persons who approved the selection of **Applicant's MARK**.
- (b) Describe the specific reasons for the selection of **Applicant's MARK**.

ANSWER:

- (a) Eric Grossnickle, Creative Director; Steve Grossnickle, Sole Member of Applicant, 1428 S. Freedom Parkway, Winona Lake, Indiana 46590.
- (b) The specific reasons for the selection of Applicant's Mark are as follows:
 - i. The mark is a literal visual representation of Applicant's winery's name (i.e. Forty-Five North) which refers to the fact that the 45°0'N latitudinal line runs directly through Applicant's vineyard property.
 - ii. The numeral "45" in the mark is simply the numeric form of the number in Applicant's winery's name.

iii. The circular shape refers to a globe while the arrow at the top indicates "North". Together, the circular shape and arrow are meant to resemble that of a compass.

I hereby affirm under the penalties for perjury that I have read the foregoing Answers to Interrogatories and that they are true and correct.

Dated this 10th day of May, 2011.

S.P. GROSSNICKLE, LLC

Steven P. Grossnickle

By: Steven P. Grossnickle

Its: Sole Member

Respectfully submitted,

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Attorney for Applicant

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing has been served upon the following via United States Regular Mail on May 10th, 2011:

Julie B. Seyler
Abelman, Frayne & Schwab
666 Third Avenue
New York, New York 10017
Attorney for Applicant

Michelle C. Stambaugh
Michelle C. Stambaugh